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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/601,050	06/20/2003	Anthony M. Olson	P1946US00	8455
24333	7590	04/09/2007		
GATEWAY, INC. ATTN: Patent Attorney 610 GATEWAY DRIVE MAIL DROP Y-04 N. SIOUX CITY, SD 57049			EXAMINER JONES, HEATHER RAE	
			ART UNIT 2621	PAPER NUMBER
SHORTENED STATUTORY PERIOD OF RESPONSE			MAIL DATE	DELIVERY MODE
3 MONTHS			04/09/2007	PAPER

**Please find below and/or attached an Office communication concerning this application or proceeding.**

If NO period for reply is specified above, the maximum statutory period will apply and will expire 6 MONTHS from the mailing date of this communication.

<b>Office Action Summary</b>	<b>Application No.</b>		<b>Applicant(s)</b>	
	10/601,050		OLSON, ANTHONY M.	
	<b>Examiner</b>		<b>Art Unit</b>	
	Heather R. Jones		2621	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --  
**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

#### Status

- 1) ☒ Responsive to communication(s) filed on 20 June 2003.
- 2a) ☐ This action is **FINAL**.                      2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

#### Disposition of Claims

- 4) ☒ Claim(s) 1-19 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-19 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

#### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 20 June 2003 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

#### Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All    b) ☐ Some \*    c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

#### Attachment(s)

- |  |   |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)            | 4) <input type="checkbox"/> Interview Summary (PTO-413)           |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)   | Paper No(s)/Mail Date. _____                                      |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| Paper No(s)/Mail Date <u>6/20/2003</u>   | 6) <input type="checkbox"/> Other: _____                          |

## DETAILED ACTION

### *Specification*

1. The disclosure is objected to because of the following informalities:
  - a. Page 7, line 5: change "writer 34" to --writer 32--.
  - b. Claim or Claims: See 37 CFR 1.75 and MPEP § 608.01(m). The claim or claims must commence on separate sheet or electronic page (37 CFR 1.52(b)(3)).

Appropriate correction is required.

### *Claim Rejections - 35 USC § 103*

2. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

3. Claims 1-19 are rejected under 35 U.S.C. 103(a) as being unpatentable over Browne et al. (WO 92/22983) in view of a Utsunomiya et al. (U.S. Patent Application Publication 2002/0066113).

Regarding claim 1, Browne et al. discloses a system useful for storing a television program P, comprising: a PVR (100) having a first memory (104), a network interface device (105a), and logic configured to copy the television program P into memory (the controller (105) copies the television program P into memory); and a second memory (104b) in communication with the PVR (100) via the network interface device (105a)

(Fig. 1; page 10, line 32 – page 11, line 11). However, Browne et al. fails to disclose virtual storage management (VSM) logic configured to track the location of the second memory on the network, and to store a portion of the program P in the second memory.

Referring to the Utsunomiya et al. reference, Utsunomiya et al. discloses a recording system useful for storing a television program P, comprising: a first memory (3), a network interface drive, and logic configured to copy the television program P into memory (control unit 10 copies the television program P into memory); a second memory (4) in communication with the recording system via the network interface device; and a virtual storage management (VSM) logic configured to track the location of the second memory (4) on the network, and to store a portion of the program P in the second memory (4) (Figs. 1 and 11; paragraphs [0083] – [0085]).

Therefore, it would have been obvious to one of ordinary skill in the art at the time the invention was made to have combined the teaching of using virtual storage management logic as disclosed by Utsunomiya et al. with the PVR as described by Browne et al. in order to allow the PVR to efficiently playback recordings, especially when a portion of a program is recorded in the first memory and another portion of the program is recorded in the second memory. Furthermore, by recording portions of a program in more than one device allows the user to use the memory devices to their fullest capabilities.

Regarding claim 2, Browne et al. in view of Utsunomiya et al. discloses all the limitations as previously discussed with respect to claim 1 including that the VSM logic is configured to track the total amount of memory storage on the network that is available for storing at least a portion of a program (Browne et al: Fig. 3 – auto recording storage allocation (305); page 20, line 38 – page 21, line 3; Utsunomiya et al.: paragraphs [0044] and [0047]).

Regarding claim 3, Browne et al. in view of Utsunomiya et al. discloses all the limitations as previously discussed with respect to claim 1 including that the VSM logic is configured to track the memory locations of a plurality of portions P(i) of the program P (Utsunomiya et al.: Fig. 11; paragraphs [0083]–[0085]).

Regarding claim 4, Browne et al. in view of Utsunomiya et al. discloses all the limitations as previously discussed with respect to claim 1 including that the VSM logic is configured to perform at least one of: (a) track which memory devices on the network are currently active in recording or playback; (b) track the memory locations of previously stored programs; (d) inform the user when a memory device holding at least a part of a program is off-line; (e) request the user to bring on-line a memory device that is off-line; (f) inform a user before the total available on-line memory runs out; (g) allow the user to set a memory lower limit for the VSM logic to inform the user prior to running out of memory; and (h) after informing the user of the memory lower limit condition, further provide the

user the option to erase previously stored programs in real time (Utsunomiya et al.: Fig. 11 – tracks the memory locations of previously stored programs).

Regarding claim 5, Browne et al. in view of Utsunomiya et al. discloses all the limitations as previously discussed with respect to claim 1 as well as further comprising an archival memory device in communication with the PVR; and archival storage management (ASM) logic configured to store the program P on the archival memory device (Browne et al.: page 10, line 32 – page 11, line 11 – the optional storage section may include removable media for long term storage; Utsunomiya et al.: Figs. 1 and 4; paragraphs [0043] and [0083]-[0085]).

Regarding claim 6, Browne et al. in view of Utsunomiya et al. discloses all the limitations as previously discussed with respect to claims 1 and 5 including that the archival memory device comprises a DVD-R device (Browne et al.: page 10, line 32 – page 11, line 11 – the optional storage section may include removable media for long term storage; Utsunomiya et al.: Figs. 1 and 4; paragraph [0043] – the disk (18) can be optical disk).

Regarding claim 7, Browne et al. in view of Utsunomiya et al. discloses all the limitations as previously discussed with respect to claim 1 including that the first memory and the second memory each comprises a hard disk drive (Browne et al.: page 10, line 32 – page 11, line 11; Utsunomiya et al.: paragraph [0043] – the disk (18) can be a hard disk).

Regarding claims **8-14**, grounds for rejecting claims 1-7 apply for claims 8-14 in their entirety.

Regarding claims **15-18**, these are method claims corresponding to the apparatus claims 1, 2, and 5. Therefore, claims 15-18 are analyzed and rejected as previously discussed with respect to claims 1, 2, and 5.

Regarding claim **19**, Browne et al. discloses a method of playing back a program using a PVR, each memory device (104 and 104b) in communication with the PVR, at least one of the memory devices (104b) in communication with the PVR via a network (105a), the method comprising: playing back a program through at least the PVR (playing back a program that is stored in the first memory device (104)); and playing back a program through the network (105a) and through the PVR (playing back a program stored in the second memory (104b)) (Fig. 1; page 10, line 32 – page 11, line 11). However, Browne et al. fails to disclose playing back a program P, wherein the program is stored in at least two portions, each portion is stored on a separate memory device.

Referring to the Utsunomiya et al. reference, Utsunomiya et al. discloses a method of playing back a program P, the program stored in at least two portions, each portion stored on a separate memory device, the memory comprising: playing back a first portion; and playing back a second portion through the network (Figs. 1, 11, and 12; paragraphs [0083] – [0085]).

Therefore, it would have been obvious to one of ordinary skill in the art at the time the invention was made to have combined the teaching of using playing back different portions of a program from a plurality of devices and to use logic to store the program portions as disclosed by Utsunomiya et al. with the PVR as described by Browne et al. in order to allow the PVR to efficiently playback recordings, especially when a portion of a program is recorded in the first memory and another portion of the program is recorded in the second memory.

### ***Conclusion***

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Heather R. Jones whose telephone number is 571-272-7368. The examiner can normally be reached on Mon. - Thurs.: 7:00 am - 4:30 pm, and every other Fri.: 7:00 am - 3:30 pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, James Groody can be reached on 571-272-7950. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair->




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Heather R Jones  
Examiner  
Art Unit 2621

HRJ  
March 26, 2007

  
**James J. Groody**  
**Supervisory Patent Examiner**  
**Art Unit 262 2621**